

Highlights of the MSBA Legislation

Chapters 201, 208 and 210 of the Acts of 2004 created the Massachusetts School Building Authority (MSBA) and changed the school building assistance program in substantial ways. The following is a summary of some major programmatic changes contained in that legislation.

Creation of the Massachusetts School Building Authority

- The MSBA is an independent public authority chaired by Timothy Cahill, State Treasurer.
- Additional members of the MSBA are David Driscoll, Commissioner of Education, Timothy Murphy, designee of the Secretary of Administration and Finance, Richard Bertman, Founding Principal, CBT Architects, Terry Kwan, former teacher and Brookline School Committee member, Mary Grassa O'Neill, Director, the Principal's Center at the Harvard Graduate School of Education, Lisa Turnbaugh, Construction Management Leader, DMJM Harris.
- The creation of the MSBA was determined to be in the best interests of the commonwealth and its citizens to achieve the objectives of effective management and planning of the Commonwealth's investments in school building assets, promoting positive educational outcomes, ensuring the health, safety, security and well-being of students, easing and preventing overcrowding, maintaining good repair, efficient and economical construction and maintenance, financial sustainability of the school building assistance program, thoughtful community development, smart growth and accessibility.

Creation of the School Modernization and Reconstruction Trust Fund (SMART Fund)

- Revenues to the SMART Fund include a dedication of 20 per cent of the Commonwealth sales and use tax.
- The cities, towns and regional school districts are the legal beneficiaries of the sales tax redirection to the SMART Fund.
- There are established guaranteed minimum amounts of sales tax dedicated to the SMART Fund of \$395M in FY2005, \$488M in FY2006, \$557M in FY2006, \$634M in FY2008.
- Full 20 per cent dedication of the sales and use tax will be fully phased-in by 2011.

Creation of an Advisory Board

- The advisory board was created to assist the MSBA in the development of general policy regarding school building construction, renovation, reconstruction, maintenance and facility space, preservation of open space, thoughtful community development, cost management and to provide technical advice and input.
- The advisory board consists of the following 17 members: the State Auditor, the Inspector General, the Executive Director of the MSBA (non-voting), a member of the

Massachusetts Municipal Association, the Massachusetts Municipal Association, the Massachusetts Association of School Committees, the Massachusetts Mayors Association, the Massachusetts Association of School Superintendents, the Massachusetts Association of Regional Schools, the Massachusetts Building Trades Council, the Massachusetts chapter of the Associated Builders and Contractors, the Massachusetts Alliance of Small Contractors, the American Council of Engineering Companies of Massachusetts, the Associated Subcontractors of Massachusetts, the American Institute of Architects- Massachusetts, the Massachusetts Smart Growth Alliance, the Massachusetts Taxpayers Foundation, Associated General Contractors of Massachusetts and acting jointly, the Massachusetts Teachers Association and Massachusetts Federation of Teachers.

Grant Applications

- The MSBA will review, approve or deny grant applications, waivers and other requests submitted to the MSBA.
- The MSBA will also review, approve and recommend changes to grant payment schedules or suspend said schedules for program projects such as refinancing, audit findings and such other circumstances that may warrant such action.
- Any eligible applicant (city, town, regional school district or independent agricultural and technical school) may apply for a grant on a new project after the moratorium ends July 1, 2007.
- After the moratorium ends on July 1, 2007, applicants that begin construction before approval for a project is obtained from the MSBA, shall remain subject to the MSBA's approval process as if the construction were not undertaken.
- The criteria for approving a grant application for a school project include:
 - The school project is in the best interests of the commonwealth.
 - The school project is in the best interest of the eligible applicant, with respect to its site, type of construction, sufficiency of accommodations, open space preservation, urban development, urban sprawl, energy efficiency, and otherwise.
 - The school project is necessary to meet educational standards of the curriculum frameworks established by the board of education.
 - The school project has a value over its useful life commensurate with the lifecycle cost of building, operating, and maintaining the project.
 - The school project is not at a school that has been the site of an approved school project pursuant to this chapter or to chapter 645 of the acts of 1948 within the 10 years prior to the project application date.
 - The school project is within the capacity of the MSBA to finance within revenues projected to be available to the trust, established pursuant to section 35BB of chapter 10.
 - The Commissioner of Education has certified that adequate provisions have been made in the school project for children with disabilities.
 - The Commissioner of Education has certified that, in the case of elementary facilities, that adequate provisions consistent with local policy have been made for all-day kindergarten, pre-kindergarten classes and for extended day programs.

- The MSBA shall also consider the availability of funds projected in the SMART Fund and other financial obligations of the MSBA, the MSBA's long term capital plan, and the results of needs surveys.

Priority System

The MSBA is required to develop a project priority system that includes the following criteria:

- Replacement or renovation of a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of school children, where no alternative exists.
- Elimination of existing severe overcrowding.
- Prevention of the loss of accreditation.
- Prevention of severe overcrowding expected to result from increased enrollments which must be substantiated.
- Replacement, renovation or modernization of the heating system in any schoolhouse to increase energy conservation.
- Short term enrollment growth.
- Replacement of or addition to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements.
- Transition from court-ordered and Board of Education approved racial balance school districts to walk-to, so-called, or other school districts.

Enrollment Projection Model

The MSBA is required to develop a formal enrollment projection model.

Facilities Assessment

The MSBA is required to:

- Collect and maintain data on all the public school facilities in the commonwealth, including information on size, usage, enrollment, available facility space and maintenance.
- Create a maintenance assessment program for school buildings.
- Use such assessment program to issue ratings of the building conditions for each school district.

Needs Survey

The MSBA is required to perform a needs survey to ascertain the capital construction, reconstruction, maintenance and other capital needs for schools in the Commonwealth.

Maintenance Requirement

For all projects which received first school building assistance payments after July 1, 2000, the MSBA is prohibited from approving a grant application for any school district which does not spend in the year preceding application at least 50 percent of the sum of said school districts calculated foundation budget amounts for the purposes of foundation utility and ordinary maintenance expenses.

Clearing House for Best Practices

The MSBA will become a resource for local communities by providing the following:

- Architectural or other technical advice and assistance.
- Training and education, to cities and towns or to joint committees thereof and to general contractors, subcontractors, construction or project managers, designers and others in the planning, maintenance and establishment of school facility space.
- Collection and maintenance of a clearinghouse of prototypical school plans which may be consulted by eligible applicants.

Project Managers and Contract Forms

- The MSBA is required to approve the forms used by eligible applicants to enter into contracts for architectural, engineering and other services.
- The MSBA is required to approve project managers.

Moratorium

No applications for school building projects can be accepted until after July 1, 2007.

Live within the Revenue Stream Provided by the Dedication of the Sales Tax

- The MSBA is required to approval only those projects which can be funded within the revenue available from the dedication to the SMART Fund of the 20 per cent of the sales tax.
- The MSBA will develop a long-term capital plan.
- Beginning on July 1, 2007, the amount of grants approved during the fiscal year is capped at \$500M. This cap grows by a factor of 4.5 percent every year thereafter.
- As of July 1, 2007, there no longer will be a wait list.
- If a project application is not approved solely for lack of available funding in a given fiscal year, an eligible applicant may request that their application be carried forward and reviewed in the following fiscal year. However, in said review, the project shall be in the general pool of all applicants from that year and will be ranked and evaluated using the standard priority system.

Determine Eligibility of Cost Components for Projects

- The MSBA is required to issue annually the maximum eligible cost standards and size standards for school projects and shall be in conformity with the minimum requirements of state law and shall also reflect consideration of cost effects, prevailing educational standards in the Commonwealth and the needs of efficient and creative school projects.
- The cost standards shall be based on the price experience of recently completed and recently bid school projects, taking into account the cost effectiveness of design, construction and programming techniques utilized in such school projects.